



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA UPS

Signature required

JUN 05 2014

Mr. Robert C. Muche
Delaware City Refining Co. LLC
4550 Wrangle Hill Road
Delaware City, DE 19706

**Re: Notice of Violation
Compliance Evaluation Inspection
September 17-20, 2013
EPA ID No. DEN201000006**

Docket Number: R3-14-NOV-RCRA-14

Dear Mr. Muche:

On September 17 thru 20, 2013 the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") under the Delaware Regulations Governing Hazardous Waste (DeRGHW) and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. at your facility. A copy of the inspection report is enclosed. Based on that inspection and/or review of other pertinent information, EPA has determined that Delaware City Refining Co. (the Facility) is violating regulations promulgated under DeRGHW and RCRA. As a result of this finding, the Agency is issuing this **Notice of Violation (NOV)**. The specific violation(s) are:

1. During the inspection the inspector observed liquid coming out of three 20 cubic yard roll off containers in the vicinity of the Continuous Polymer Units (CPU). No hazardous waste labels were observed on the containers, however, at the request of the inspector, the facility determined the fluid from the containers to have a pH of 1.5 (D002); see inspection report page 9 and photos 1-17. Failure to make a waste determination as required by DeRGHW §262.11 [40 CR 262.11], failure to label container as required by DeRGHW §262.34(a)(3) [40 CR 262.34(a)(3)], failure to maintain and operate the facility to minimize a release of hazardous waste or hazardous constituents to air, soil, or surface water as required by DeRGHW §265.31 [40 CFR 265.31].
2. During the inspector's review of the 2011 waste manifest she observed 13 that were signed by the designated facility well beyond 45 days. According the Facility no exception reports were filed with DNREC or EPA Region 3. Failure to file an exception report as required by DeRGHW §262.42(b) [40 CFR 262.42(a)(2)].

3. During the inspector's review of the facility contingency plan she discovered that no names, home address or home number was provided for the emergency contact (EC) information. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator as required in DeRGHW §265.52(d) [40 CFR §265.52(d)].

Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this Notice of Violation may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.

Within thirty (30) calendar days of the receipt of this NOV, please submit a response documenting the measures the facility has taken or is taking to achieve compliance with the violations noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations are in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Any response to this NOV shall be addressed to:

Stephen Forostiak (3LC70)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103



Carol Amend, Associate Director
Land and Chemicals Division
Office of Land Enforcement

June 5, 2014
Date

Enclosure

cc: S. Forostiak (3LC70)
K. J'Anthony (DNREC)

